

RECEIVED

JAN - 8 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 8, 2001

BY HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

**Re: Comments of BT North America Inc.
In the Matter of FWCC Request for Declaratory Ruling et al.
Notice of Proposed Rulemaking, IB Docket No.: 00-203, RM-9649, SAT-
PDR-19990910-00091 (released Oct. 24, 2000)**

Dear Ms. Salas:

BT North America Inc., pursuant to section 1.419 of the Commission's Rules, 47 C.F.R. §1.419, hereby files an original and four copies of its Comments in the above-captioned proceeding.

Please direct questions concerning this Petition to the undersigned at (202) 434-8873.

Respectfully submitted,



Kristen Neller Verderame
Director, U.S. Regulation & Government Relations
BT North America Inc.

No. of Copies rec'd
DATE ABCDE

014

RECEIVED

JAN - 8 2001

**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
FWCC Request for Declaratory Ruling)	
On Partial-Band Licensing of Earth)	IB Docket No. 00-203
Stations in the Fixed-Satellite Service)	RM-9649
That Share Terrestrial Spectrum)	
)	
FWCC Petition for Rulemaking to Set)	
Loading Standards for Earth Stations)	
In the Fixed-Satellite Service that)	
Share Terrestrial Spectrum)	
)	
Onsat Petition for Declaratory Order)	SAT-PDR-19990910-00091
That Blanket Licensing Pursuant to Rule)	
25.115(c) is Available for Very Small)	
Aperture Terminal Satellite Network)	
Operations at C-Band)	
)	
Onsat Petition for Waiver of Rule)	
25.212(d) to the Extent Necessary to)	
Permit Routing Licensing of 3.7 Meter)	
Transmit and Receive Stations at C-Band)	
)	
Ex parte Letter Concerning Deployment)	
Of Geostationary Orbit FSS Earth)	
Stations in the Shared Portion of the)	
Ka-Band)	

COMMENTS OF BT NORTH AMERICA INC.

James E. Graf II
Kristen Neller Verderame
A. Sheba Chacko

BT North America Inc.
601 Pennsylvania Avenue, N.W.
North Building, Suite 625
Washington, D.C. 20004
(202) 639-8222

TABLE OF CONTENTS

I.	INTRODUCTION AND SUMMARY	2
II.	THE PROPOSED RULE CHANGES ARE UNWORKABLE	
A.	The Proposed Rules would Destroy BTNA’s Ability to Respond Flexibly and on a Timely Basis to Customers’ Needs and a Dynamic Satellite Capacity Market	4
B.	The Proposed Rules would Require BTNA to Divert Vast Resources to Researching and Documenting Recent and Current Use	6
C.	The Proposed Rules do not Provide any Relief in the Event of a Satellite Failure	7
D.	The Proposed Rules Require Disclosure of Commercially Sensitive Information without Adequate Protections	7
E.	The Proposed Minimum Loading Standards are Inconsistent and Unnecessary	8
III.	THERE IS NO DEMONSTRATED NEED FOR CHANGES TO THE CURRENT RULES	9
IV.	THE PROPOSED RULE CHANGES ARE NOT IN THE PUBLIC INTEREST	9
V.	CONCLUSION	11

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
FWCC Request for Declaratory Ruling)	
On Partial-Band Licensing of Earth)	IB Docket No. 00-203
Stations in the Fixed-Satellite Service)	RM-9649
That Share Terrestrial Spectrum)	
)	
FWCC Petition for Rulemaking to Set)	
Loading Standards for Earth Stations)	
In the Fixed-Satellite Service that)	
Share Terrestrial Spectrum)	
)	
Onsat Petition for Declaratory Order)	SAT-PDR-19990910-00091
That Blanket Licensing Pursuant to Rule)	
25.115(c) is Available for Very Small)	
Aperture Terminal Satellite Network)	
Operations at C-Band)	
)	
Onsat Petition for Waiver of Rule)	
25.212(d) to the Extent Necessary to)	
Permit Routing Licensing of 3.7 Meter)	
Transmit and Receive Stations at C-Band)	
)	
Ex parte Letter Concerning Deployment)	
Of Geostationary Orbit FSS Earth)	
Stations in the Shared Portion of the)	
Ka-Band)	

COMMENTS OF BT NORTH AMERICA INC.

BT North America Inc. ("BTNA") hereby submits to the Federal Communications Commission ("FCC" or "Commission"), pursuant to Section 1.419 of

the Commission's Rules, 47 C.F.R. § 1.419, its Comments in response to the Notice of Proposed Rulemaking released by the Commission October 24, 2000.¹

I. INTRODUCTION AND SUMMARY

BTNA Broadcast Services is a division of BTNA, a Section 214 provider of international communications services and a wholly-owned indirect subsidiary of British Telecommunications plc ("BT"). BTNA Broadcast Services provides occasional-use video uplink and full-time broadcast services from the United States to various international points.² Where permitted, the BTNA Broadcast Services' teleports uplink to all major satellite systems, including INTELSAT, EUTELSAT, New Skies Satellites, Loral Skynet, GE Americom, Hughes and Panamsat, and on behalf of major broadcast and cable programming clients around the world, such as ABC, CBS, NBC, CNN, BBC, HBO, TNT, USA Network, Canal+, Telepiu, Rai, ITV Sport, EBU, Canal Antilles, TF1, Mnet and Star TV. BTNA Broadcast Services transmits, on behalf of U.S. broadcasters, a variety of services providing coverage of major news and sporting events such as the Wimbledon Tennis Championships and the '96 Atlanta Olympics transmitted live internationally for world-wide distribution.

¹ Notice of Proposed Rulemaking, IB Docket No. 00-203, RM-9649, No. SAT-PDR-19990910-00091 (released Oct. 24, 2000) (*hereinafter* "NPRM").

² BT operates a similar but separate Broadcast Services division out of the U.K. ("BT Broadcast Services"). In addition to BTNA Broadcast Services' U.S. facilities in Washington, D.C. and Los Angeles, there are five facilities in the U.K., with other facilities in Paris, Moscow, Brussels, and Berlin operated by BT Broadcast Services. BT Broadcast Services also has a range of remotely managed on-site systems at customer sites in Germany, Italy, France, and Benelux. In total, outside the U.S. BT operates dozens of teleport facilities, with approximately 100 dishes and a fleet of approximately 40 satellite trucks and flyaways, and provides contribution and distribution transmission services for hundreds of broadcast channels.

Because of its international end-to-end network of facilities, Broadcast Services is able to provide customers with uplink, space segment, and downlink services, providing a customer-friendly alternative to the traditional approach of obtaining these services through separate suppliers. Through its U.S. facilities, located in Washington, D.C. and Los Angeles, California, BTNA Broadcast Services offers both occasional use and full-time broadcast services.

BTNA objects at the outset to any changes to the Commission's existing rules regarding licensing and coordination of spectrum used for fixed wireless and fixed satellite services.³ The proposed changes are unworkable because they would impose onerous regulations on BTNA while decreasing its flexibility and efficiency, thereby causing BTNA to lose large numbers of customers. BTNA is not witness to any demonstrated need for changes in this regard. Indeed, the flexibility built into the current regulations is essential to BTNA's business objectives and practices and to its continued efficient provision of satellite services. Furthermore, the proposed rule changes are not in the public interest. If adopted, the new rules would constrain BTNA from providing services to customers, including services important to the public interest, such as emergency services. For these reasons, BTNA respectfully requests that the Commission reject the rule changes proposed in the NPRM.

³ In addition to its specific comments, BTNA joins in the comments being filed today in this proceeding by the Satellite Industry Association; the Satellite Broadcasting, and Communications Association; the World Teleport Association and the Aeronautical Industries Association of America.

II. THE PROPOSED RULE CHANGES ARE UNWORKABLE

The rule changes proposed in the Commission's NPRM are unworkable in many respects. The proposed rules would take away the ability and flexibility of BTNA and other providers of full-time or occasional use/part-time broadcast services to quickly and efficiently respond to shifting patterns of customers' requests for service and the ever-changing and volatile satellite capacity market. The proposed rules also would require BTNA to divert huge amounts of manpower to research and provide documentation of recent and current use. Moreover, the proposed rules do not provide any relief in the event of a satellite failure. The proposed rules also would require disclosure of commercially sensitive information to a party that represents competing business interests and inject new minimum loading standards that are inconsistent and unnecessary. In short, the Commission's proposed rule changes would increase the regulatory burdens and risks imposed on BTNA while impeding its ability to do business effectively thereby causing BTNA to lose a large number of customers.

A. The Proposed Rules would Destroy BTNA's Ability to Respond Flexibly and on a Timely Basis to Customers' Needs and a Dynamic Satellite Capacity Market

The Commission proposes to reduce the licensed spectrum of an earth station operator that cannot demonstrate its recent, current and imminent use of licensed frequencies if the earth station operator denies a coordination request to use such frequencies. Such a proposal would destroy BTNA's occasional use and full-time broadcast service businesses.

In BTNA's occasional use business, it is normal for BTNA to receive requests to provide service mere minutes before a transmission is to take place. It is also normal for services to be moved from one satellite service provider to another, using multiple

transponders, and for frequencies to be changed, *literally minutes* before service commences. BTNA has no control over this. BTNA must have flexibility to move to any frequency allocated for occasional use broadcast service on a moment's notice. In addition, during peak period events such as airplane crashes, natural disasters, sporting events, elections, etc., satellite capacity providers use frequencies outside the pool of frequencies normally assigned to the provision of occasional use broadcast services. BTNA must be able to go anywhere in a band to provide occasional use broadcast services during such peak period events. Given these circumstances, therefore, it would simply be impossible for BTNA to demonstrate imminent use to a frequency coordinator with respect to its occasional use broadcast services.

Even with respect to its full-time services, BTNA would not be able to adequately demonstrate imminent use to a frequency coordinator. The market for the availability of satellite capacity is very volatile and dynamic. The sales cycle for BTNA's full-time use broadcast contracts can range anywhere from six months to one year. It is only at the end of this cycle, shortly before BTNA actually delivers service to its customer, that a satellite capacity provider will provide BTNA with information about the specific frequencies to be used. Under the Commission's proposal, BTNA would not be able to provide information about frequencies it is about to use except for the fraction of contracts that happen to be at the end of their sales cycle when a request is made. Therefore, again, BTNA would be unable to accurately demonstrate its imminent use of frequencies to a frequency coordinator, and as a result would lose spectrum.

There are additional reasons why BTNA must retain flexibility to assign customers to a variety of different frequencies. Satellite capacity providers always retain

the contractual right to assign and change frequencies because they often have to do so, usually with little or no notice to BTNA and their other customers. BTNA must maintain the flexibility to be able to work on any frequency the satellite service provider may assign BTNA. Additionally, as an ongoing business concern, BTNA also needs flexibility in order to retain customer confidence. BTNA receives new requests daily for services with bandwidth requirements ranging from between 36 MHz and 1 MHz (and less) per carrier. BTNA must be able to advise its clients that it can handle their requirements no matter what frequency the satellite operator assigns BTNA. In trying to finalize business agreements, any delay or even the client's perception of a potential delay in service could result in irreparable damage to the confidence and reliability BTNA has established with its customers over many years. Without this flexibility, BTNA will simply lose a large percentage of its customers.

B. The Proposed Rules would Require BTNA to Divert Vast Resources to Researching and Documenting Recent and Current Use

Compliance with the Commission's proposal to require an earth station operator to demonstrate its recent and current use of spectrum, even for a single denial of a coordination request, would take *weeks* of manpower because BTNA maintains an inventory of occasional use capacity on a number of satellites; for example, on one satellite alone there are 19 transmit and 19 receive frequencies used to provide occasional use broadcast services. Some of these frequencies are used for as little as 15 minutes while others are used for up to 24 hours a day. BTNA sends and receives between 1500 and 2000 feeds every month. In addition, BTNA uses a number of other frequencies in the occasional use "pool" of capacity maintained by INTELSAT, New Skies, GE Americom, Loral Skynet, and PanAmSat/Hughes. Searching through hundreds of

thousands of entries over a 24-month period to document BTNA's recent and actual use of a set of frequencies would be time-intensive and extremely burdensome. Moreover, in dense markets like Los Angeles, BTNA could be faced with requests to document recent use on a daily basis, and therefore would be forced to divert vast amounts of manpower to researching and demonstrating recent and current use. This is simply impossible in the extremely competitive business of broadcast services.

C. The Proposed Rules do not Provide any Relief in the Event of a Satellite Failure

In the event of a satellite failure, existing customers' services must be switched to another frequency immediately in order to restore service. An earth station operator whose licensed frequencies had been reduced over the course of the license term would simply not have time to formally apply for additional frequencies from the Commission when such frequencies are needed in these circumstances. Similarly, special consideration and/or dispensation must be made in the event of catastrophic satellite failure that necessitates migration of that antenna to a backup spacecraft in another orbital slot. The Commission's proposed rules fail to address these special situations.

D. The Proposed Rules Require Disclosure of Commercially Sensitive Information without Adequate Protections

The Commission proposes to require an earth station operator to submit to a frequency coordinator information regarding the earth station operator's recent, current and imminent use of spectrum and to allow a frequency coordinator to make a determination as to whether the spectrum in question is "in use." A frequency coordinator would be ill-equipped to determine the efficient use of spectrum in the occasional use and full-time broadcast services business because of the wide range of technical and non-technical (business-related) issues that must be considered. The

volatile and dynamic market for satellite broadcast services encompasses numerous issues, ranging from extremely technical matters to regulatory issues to complex business considerations, that a single frequency coordinator simply cannot adequately assess. Moreover, in order to make the necessary assessment under the proposed regime, BTNA would have to disclose information regarding its customers for the past 24 months and its pending contracts. This is commercially sensitive information that BTNA should not have to disclose even to a federal agency without guarantees as to how this information would be protected. BTNA would be extremely reluctant to disclose such information to a coordinator that does and would routinely represent a wide range of competing licensees, both satellite and terrestrial. Finally, the Commission has not addressed at all the issue of its authority to delegate such adjudicatory powers to a frequency coordinator.

E. The Proposed Minimum Loading Standards are Inconsistent and Unnecessary

BTNA does not support the establishment of minimum loading standards. For the reasons discussed above, minimum loading standards would be inconsistent with the business needs and practices of fixed satellite operators. Furthermore, fixed satellite operators already have a strong incentive to operate efficiently and do so, because of the significant amount of up-front investment required for earth stations and the currently applicable rules on spacing and frequency re-use. Additional requirements and restrictions will not serve to enhance, but rather to detract, from this incentive.

III. THERE IS NO DEMONSTRATED NEED FOR CHANGES TO THE CURRENT RULES

There is no information on the record to demonstrate that changes to the current framework of rules are necessary. It is the experience of BTNA that the current rules are working well. Indeed, BTNA has not been witness to any sharing difficulties with fixed wireless providers, nor has it received any complaints or even unsatisfactory comments from such providers during the coordination process with respect to interference issues or otherwise.

BTNA is simply not aware of any evidence to support the FWCC's bald contention that the current rules favor satellite services at the expense of terrestrial operations. To create more burdensome and complicated coordination and operational restrictions on earth station operators when there has been no demonstration of a need for change is nonsensical and pushes the very boundary of Commission authority.

IV. THE PROPOSED RULE CHANGES ARE NOT IN THE PUBLIC INTEREST

The rule changes proposed by the Commission are not in the public interest because they are at odds with the development and implementation of newer, more efficient spectrum use technologies by satellite capacity providers. Such technologies are contributing to an *increased* need for flexibility moving forward. As digital compression technologies continue to develop at exponential rates, carrier bandwidth sizes continue to reduce. As the carrier bandwidth sizes shrink, satellite operators have to be able to assign frequencies to those carriers anywhere across the available spectrum of their fleet that can accommodate those carriers. Similarly, different modulation techniques are being increasingly utilized that require significantly more power while at the same time, in most

cases, using significantly less spectrum on a per carrier basis. For example, a single 64 Kb circuit can require as little as 20 kHz of spectrum, using 16QAM, or an entire transponder if the service utilizes CDMA. The increased use of higher order modulation techniques is borne of necessity as there is not enough capacity at this stage to handle current requirements. Thus, these continuing and inevitable developments will further necessitate maximum flexibility for earth stations to work on any frequency the satellite service provider may assign. The Commission's proposed rules removing such flexibility take away the ability of satellite capacity providers to use spectrum efficiently.

Moreover, the public interest would suffer as a direct result of the severe impact that the proposed rule changes would have on BTNA and other providers of full-time or occasional use / part-time broadcast services. Through the commonality of language and BT's extensive around-the-world network and broad client base, BTNA is able to offer a wide range of English-language programming between the United States and U.K., as well as other countries around the world. If BTNA is constrained by the proposed rules such that it is unable to competitively offer its occasional use and full-time satellite services, U.S. consumers will be foreclosed from benefiting from these services at the lower, competitive prices that BTNA is now able to offer its customers.

Additionally, the public will suffer if BTNA and other providers are unable to provide service on demand for occasional use in particular. BTNA has provided services to enable the exchange of medical imaging data during armed conflict and emergency situations, the dissemination of live surgical procedures and pharmaceutical data, and the delivery of news and Internet backbone services for the exchange of weather-related information. For example, BTNA provided for CNN video transmission services from

Bosnia to the United States during recent unrest. CNN's live coverage of international "hot spots" is increasingly becoming a strategic necessity for military commands here in the United States. If BTNA is constrained from providing service on demand, the public will be foreclosed from benefiting from these types of services. Thus, the Commission's proposed rule changes are not in the public interest.

V. CONCLUSION

BTNA objects to any changes to the Commission's existing rules regarding licensing and coordination of spectrum use for fixed wireless and fixed satellite services. The proposed changes are unworkable in several significant respects for the reasons discussed in these comments. Moreover, BTNA is not witness to any demonstrated need for changes in this regard. The flexibility built into the current regulations is essential to BTNA's business objectives and practices and to its continued efficient provision of satellite services. Furthermore, the proposed rule changes, if adopted, would have a severe impact on BTNA and on the public. The new rules would place significant, unreasonable burdens on BTNA and other operators, constraining BTNA from providing services to customers, including services important to the public interest.

For these reasons, BTNA respectfully requests that the Commission reject the rule changes proposed in the NPRM.

Respectfully submitted,

BT NORTH AMERICA INC.

A handwritten signature in black ink, appearing to read 'Graf II', is written over a horizontal line.

James E. Graf II
Kristen Neller Verderame
A. Sheba Chacko
BT North America Inc.
601 Pennsylvania Avenue, N.W.
Suite 625 North
Washington, D.C. 20004

Dated: January 8, 2001

(202) 639-8222